

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** No

**Origin:** ED

**Issue:** Perkins - Loan Disbursements

**Regulatory Cite:** §674.2(b) and §674.16(d)(2)

**Summary of Change:** The proposed changes would allow for the implementation of a master promissory note in the Perkins Loan Program. The proposed language would modify the definition of "making a loan" and add a definition of "master promissory note" in §674.2(b). Under §674.16(d)(2), two changes have been proposed. The first change would remove the requirement that a borrower sign a promissory note for each award year. The second change would add new language clarifying when the master promissory note expires.

**(1) Change (context):**

§674.2 Definitions.

\* \* \* \* \*

(b) The Secretary defines other terms used in this part as follows:

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*Making of a loan:* When the ~~borrower signs the promissory note for the award year and the institution makes the first disbursement of~~ a loan to a student ~~funds under that promissory note for that~~ an award year.

Master promissory note (MPN): A promissory note under which the borrower may receive loans for a single award year or multiple award years.

\* \* \* \* \*

§674.16 Making and disbursing loans.

\* \* \* \* \*

(d)(1) The institution shall disburse funds to a student or the student's account in accordance with 34 CFR 668.164.

(2) The institution shall ~~obtain the borrower's signature on a promissory note for each award year before it disburses any loan funds to the borrower under that note for that award year.~~  
ensure that each loan is supported by a legally enforceable promissory note as proof of the borrower's indebtedness.

(3) If the institution uses the Master Promissory Note (MPN), the institution's ability to make additional loans based on an MPN will automatically expire upon the earliest of-

(A) The date the institution receives written notification from the borrower requesting that the MPN no longer be used as the basis for additional loans;

(B) Twelve months after the date the borrower signed the MPN if no disbursements are ~~issued~~ made by the institution~~school~~ under that MPN; or

(C) Ten years from the date the borrower signed the MPN or the date the institution receives the MPN, except that a remaining portion of a loan may be disbursed after this date.

\* \* \* \* \*

**(2) Amendatory Language:**

Section 674.2(b) is amended:

A. By revising the definition of "Making of a loan".

B. By adding a new definition of "Master promissory note".

The revision and addition read as follows:

§674.2 Definitions.

\* \* \* \* \*

(b) \*\*\*

Making of a loan: When the institution makes the first disbursement of a loan to a student for an award year.

Master promissory note: A promissory note under which the borrower may receive loans for a single award year or multiple award years.

\* \* \* \* \*

Section 674.16 is amended:

A. In paragraph (d)(2), by removing "obtain the borrower's signature on a promissory note for each award year before it disburses any loan funds to the borrower under that note for

that award year." and adding, in its place, "ensure that each loan is supported by a legally enforceable promissory note as proof of the borrower's indebtedness."

B. By adding a new paragraph (d)(3).

The addition reads as follows:

§674.16 Making and disbursing loans.

\* \* \* \* \*

(d) \*\*\*

(3) If the institution uses the Master Promissory Note (MPN), the institution's ability to make additional loans based on an MPN will automatically expire upon the earliest of-

(A) The date the institution receives written notification from the borrower requesting that the MPN no longer be used as the basis for additional loans;

(B) Twelve months after the date the borrower signed the MPN if no disbursements are made by the institution under that MPN; or

(C) Ten years from the date the borrower signed the MPN or the date the institution receives the MPN, except that a remaining portion of a loan may be disbursed after this date.

\* \* \* \* \*

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** Yes

**Origin:** ED Proposed 12/14/2001

**Issue:** Perkins - Transfer of Fund

**Regulatory Cite:** 674.17

**Summary of Change:** The proposed change to §674.17 would clarify the existing requirement of assignment of Perkins Loans to the Department when an institution transfers its fund to the Department when it withdraws from the Federal Perkins Loan. This change deletes the references in the regulations to schools assigning their loans to other institutions.

**(1) Change (context):**

§674.17 Federal Interest in allocated funds - transfer of Fund.

(a) If an institution responsible for a Federal Perkins Loan fund closes or no longer wants to participate in the program, the Secretary directs the institution to take ~~one or more of~~ the following steps to protect the outstanding loans and the Federal interest in that Fund:

(1) A capital distribution of the liquid assets of the Fund according to section 466(c) of the Act.

~~(2) The transfer of the outstanding loans to another institution.~~

(~~3~~2) The ~~transfer~~ assignment of the outstanding loans to the United States Department of Education.

(b) An institution that ~~transfers~~ assigns outstanding loans under this paragraph relinquishes its interest in those loans.

~~(c) If the Secretary directs the transfer of outstanding loans to a second institution, the transferee institution may deposit the collections on those loans in its own Fund. The Secretary considers that portion of the collections on transferred loans corresponding to the transferor institution's ICC to become part of the transferee institution's ICC.~~

~~(d) If the Secretary decides to transfer outstanding loans to another institution, and more than one institution offers to collect the outstanding loans, the Secretary directs that the loans be transferred to one or more of the competing institutions on the basis of --~~

~~(1) The offering institution's demonstrated loan collection capability; and~~

~~(2) The number of students of the transferor institution expected to enroll in the offering institution.~~

~~(e) The Secretary does not take an audit exception against a transferee institution on account of actions or omissions of the transferor institution in the administration of its Fund. The transferee institution shall segregate the transferred Fund account until an audit satisfactory to the Secretary is performed on the operation of the transferor institution's program.~~

\* \* \* \* \*

**(2) Amendatory Language:**

§674.17 [Amended]

Section 674.17 is amended:

A. In paragraph (a), by removing in the introductory sentence "one or more of".

B. By removing paragraph (a)(2).

C. By redesignating paragraph (a)(3) as (a)(2).

D. In redesignated paragraph (a)(2), by removing "transfer" and adding, in its place, "assignment".

E. In redesignated paragraph (a)(2), by removing "Department of Education" and adding, in its place, "United States".

F. In paragraph (b), by removing "transfers" and adding, in its place, "assigns".

G. By removing paragraphs (c), (d), and (e).

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** Yes

**Origin:** Fed Up - Additional Agenda Item

**Issue:** Perkins - Coordinating Multiple Monthly Payments for Perkins Loans

**Regulatory Cite:** 674.33(b)(2) & 674.42(a)(11)

**Summary of Change:** When an institution requires a borrower to pay a minimum monthly repayment, it is difficult for institutions to coordinate the minimum monthly repayment with other institutions unless notified by the borrower. The revisions require an institution to coordinate minimum monthly repayments only at the request of a borrower. In addition, the revisions require an institution to notify the borrower that the borrower must initiate a request to coordinate minimum monthly payments among institutions.

**(1) Change (context):**

§674.33 Repayment.

\* \* \* \* \*

(b) \*\*\*

(2) *Minimum monthly repayment of loans from more than one institution.* If a borrower has received loans from more than one institution and has notified the institution that he or she wants the minimum monthly payment determination to be based on payments due to other institutions, the following rules apply:

(i) If the total of the monthly repayments is equal to at least the minimum monthly repayment, no institution may exercise a minimum monthly repayment option.



(ii) If only one institution exercises the minimum monthly repayment option when the monthly repayment would otherwise be less than the minimum repayment option, that institution receives the difference between the minimum monthly repayment and the repayment owed to the other institution.

(iii) If each institution exercises the minimum repayment option, the minimum monthly repayment must be divided among the institutions in proportion to the amount of principal advanced by each institution.

(3) *Minimum monthly repayment of both Defense and NDSL or Federal Perkins loans from one or more institutions. If the borrower has notified the institution that he or she wants the minimum monthly payment determination to be based on payments due to other institutions, and if the total monthly repayment is less than \$30 and the monthly repayment on a Defense loan is less than \$15 a month, the amount attributed to the Defense loan may not exceed \$15 a month.*

\* \* \* \* \*

§674.42 Contact with the borrower.

(a) \*\*\*

(11) An explanation that if a borrower is required to make minimum monthly repayments, and the borrower has received loans from more than one institution, the borrower must notify the

institution if he or she wants the minimum monthly payment determination to be based on payments due to other institutions.

**(2) Amendatory Language:**

§674.33 [Amended]

Section 674.33 is amended:

A. In paragraph (b)(2), by adding, in the introductory sentence, "and has notified the institution that he or she wants the minimum monthly payment determination to be based on payments due to other institutions" after "institution".

B. In paragraph (b)(3), by adding, in the introductory sentence, "the borrower has notified the institution that he or she wants the minimum monthly payment determination to be based on payments due to the other institutions, and if" after "If".

§674.42 [Amended]

Section 674.42(a) is amended by adding a new paragraph (a)(11) to read as follows:

§674.42 Contact with the borrower.

(a)\*\*\*

(11) An explanation that if a borrower is required to make minimum monthly repayments, and the borrower has received loans from more than one institution, the borrower must notify the institution if he or she wants the minimum monthly payment determination to be based on payments due to other institutions.

\* \* \* \* \*

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** Yes

**Origin:** Fed Up #13

**Issue:** Perkins - Promissory Notes

**Regulatory Cite:** 674.42(a)(10)

**Summary of Change:** Revise the current regulations to require an institution to provide only, as part of its repayment information or during the exit interview, contact information that allows the borrower to request a copy of the borrower's signed promissory note.

**(1) Change (context):**

§674.42 Contact with the borrower.

\* \* \* \* \*

(a)(10) The contact information of a party who, upon request of the borrower, will provide the borrower ~~Aa~~ copy of the borrower's his or her signed promissory note.

\* \* \* \* \*

**(2) Amendatory Language:**

Section 674.42 (a)(10) is amended to read as follows:

§674.42 Contact with the borrower.

(a) \*\*\*

(10) The contact information of a party who, upon the request of the borrower, will provide the borrower with a copy of his or her signed promissory note.

\* \* \* \* \*

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** No

**Origin:** Fed Up (not on 12/14/01 list)

**Issue:** Perkins - Exit Counseling

**Regulatory Cite:** §674.42(b)

**Summary of Change:** The proposed change would update the counseling requirements and clarify that parties other than the school may provide the counseling.

**(1) Change (context):**

§674.42 Contact with borrowers.

\* \* \* \* \*

(b) *Exit interview.* (1) An institution must ensure that ~~conduct~~ exit counseling is conducted with each borrower either in person, by audiovisual presentation, or by interactive electronic means. The institution must ensure that exit counseling is conducted ~~conduct this counseling~~ shortly before the borrower ceases at least half-time study at the institution. As an alternative, in the case of a student enrolled in a correspondence program or a study-abroad program that the school approves for credit, the school may provide written counseling material by mail within 30 days after the borrower completes the program. If the borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, the school must ensure that ~~provide exit~~

counseling is provided through either interactive electronic means or by mailing counseling material to the borrower at the borrower's last known address within 30 days after learning that the borrower has withdrawn from school or failed to complete exit counseling as required.

(2) ~~In conducting t~~The exit counseling, ~~the school~~ must --

(i) Inform the student as to the average anticipated monthly repayment amount based on the student's indebtedness or on the average indebtedness of students who have obtained Perkins loans for attendance at ~~that~~ the school or in the borrower's program of study;

(ii) Review for the borrower available repayment options (e.g. loan consolidation and refinancing, including the consequences of consolidating a Federal Perkins Loan);

(iii) Suggest to the borrower debt-management strategies that ~~the school determines would~~ facilitate ~~best assist~~ repayment ~~by the borrower~~;

(iv) Emphasize to the borrower the seriousness and importance of the repayment obligation the borrower is assuming;

(v) Describe ~~in forceful terms~~ the likely consequences of default, including adverse credit reports and litigation;

(vi) Emphasize that the borrower is obligated to repay the full amount of the loan even if the borrower has not completed the program, is unable to obtain employment upon completion, or

is otherwise dissatisfied with or does not receive the educational or other services that the borrower purchased from the school;

(vii) Review for ~~with~~ the borrower the conditions under which the borrower may defer repayment or obtain partial cancellation of a loan;

(viii) Require the borrower to provide ~~corrections to the institution's records~~ current information concerning name, address, social security number, references, and driver's license number, the borrower's expected permanent address, the address of the borrower's next of kin, as well as the name and address of the borrower's expected employer; and

(ix) Review for ~~with~~ the borrower information on the availability of the Student Loan Ombudsman's office.

~~(3) Additional matters that the Secretary recommends that a school include in the exit counseling session or materials are in appendix D to 34 CFR part 668.~~

~~(4)~~ 3 ~~An institution that conducts~~ If exit counseling is conducted through interactive electronic means, a school must take reasonable steps to ensure that each student borrower receives the counseling materials and participates in and completes the exit counseling.

(~~5~~4) The institution must maintain documentation substantiating the school's compliance with this section for each borrower.

**(2) Amendatory Language:**

Section 674.42 is amended:

- A. By revising paragraph (b)(1).
- B. In paragraph (b)(2), in the introductory text, by removing "In conducting the" and adding, in its place, "The"; and by removing ", the school".
- C. In paragraph (b)(2)(i), by removing "that" and adding, in its place, "the".
- D. By revising paragraph (b)(2)(iii).
- E. In paragraph (b)(2)(v), by removing "in forceful terms".
- F. In paragraph (b)(2)(vii), by removing "with" and adding, in its place, "for".
- G. In paragraph (b)(2)(viii), by removing "corrections to the institution's records" and adding, in its place, "current information".
- H. In paragraph (b)(2)(ix), by removing "with" and adding, in its place, "for".
- I. By removing paragraph (b)(3).
- J. By redesignating paragraphs (b)(4) and (b)(5 as (b)(3) and (b)(4) respectively.



K. By revising paragraph (b)(3).

The revisions reads as follows:

§674.42 Contact with borrowers.

\* \* \* \* \*

(b) Exit Interview. (1) An institution must ensure that exit counseling is conducted with each borrower either in person, by audiovisual presentation, or by interactive electronic means. The institution must ensure that exit counseling is conducted shortly before the borrower ceases at least half-time study at the institution. As an alternative, in the case of a student enrolled in a correspondence program or a study-abroad program that the school approves for credit, the school may provide written counseling material by mail within 30 days after the borrower completes the program. If the borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, the school must ensure that exit counseling is provided through either interactive electronic means or by mailing counseling material to the borrower at the borrower's last known address within 30 days after learning that the borrower has withdrawn from school or failed to complete exit counseling as required.

\* \* \* \* \*

(b)(2)(iii) Suggest to the borrower debt-management strategies that would facilitate repayment;

\* \* \* \* \*

(b)(3) If exit counseling is conducted through interactive electronic means, a school must take reasonable steps to ensure that each student borrower receives the counseling materials and participates in and completes the exit counseling.

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** No

**Origin:** Fed Up #14

**Issue:** Perkins - Late Charges

**Regulatory Cite:** §674.43(b)(2)

**Summary of Change:** The proposed changes would make the assessment of late charges optional in the Federal Perkins Loan program instead of mandatory.

**(1) Change (context):**

§674.43 - Billing procedures.

\* \* \* \* \*

(b) \*\*\*

(2) Subject to §674.47(a), the institution ~~shall~~ may assess a late charge for loans made for periods of enrollment beginning on or after January 1, 1986, during the period in which the institution takes any steps described in this section to secure --

(i) Any part of an installment payment not made when, or

(ii) A request for deferment, cancellation, or postponement of repayment on the loan that contains sufficient information to enable the institution to determine whether the borrower is entitled to the relief requested.

3) The institution ~~shall~~may determine the amount of the late charge imposed for loans described in paragraph (b)(2) of this section based on either --

(i) Actual costs incurred for actions required under this section to secure the required payment or information from the borrower; or

(ii) The average cost incurred for similar attempts to secure payments or information from other borrowers.

\* \* \* \* \*

**(2) Amendatory Language:**

§674.43 [Amended]

Section 674.43(b) is amended:

A. In paragraph (2), by removing "shall" and adding, in its place, "may".

B. In paragraph (3), by removing "shall" and adding, in its place, "may".

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** Yes

**Origin:** Fed Up #21

**Issue:** Perkins - Credit Bureau Reporting

**Regulatory Cite:** 674.45(a)(1)

**Summary of Change:** The proposed change to §674.45(a)(i) would clarify when a borrower's default status is to be reported to at least one national credit bureau.

**(1) Change (context):**

§674.45 Collection procedures.

(a) The term "collection procedures," as used in this subpart, includes that series of more intensive efforts, including litigation as described in §674.46, to recover amounts owed from defaulted borrowers who do not respond satisfactorily to the demands routinely made as part of the institution's billing procedures. If a borrower does not satisfactorily respond to the final demand letter or the following telephone contact made in accordance with §674.43(f), the institution shall --

(1) Report the account as being in default ~~defaulted~~  
~~account~~ to any one national credit bureau; and

\* \* \* \* \*

**(2) Amendatory Language:**

§674.45 [Amended]

Section 674.45 (a)(1) is amended by removing "defaulted account" and adding, in its place, "the account as being in default".

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** No

**Origin:** Fed Up #20

**Issue:** Perkins - Write-Offs

**Regulatory Cite:** §674.47(h)

**Summary of Change:** The proposed change to §674.47(h) deletes the requirement that institutions may cease collection activity on a defaulted account with a balance of less than \$25. New language has been added to permit institutions to write off an account with a balance of less than \$25, or less than \$50 if the borrower has been billed for this balance (in accordance with §674.43(a)) for at least two years. In addition, new language has been added to indicate that the borrower is relieved of all repayment obligations when an institution writes off an account.

**(1) Change (context):**

§674.47 Costs chargeable to the Fund.

\* \* \* \* \*

(g) Cessation of collection activity of defaulted accounts.

~~(1) An institution may cease collection activity on a defaulted account with a balance of less than \$25, including outstanding principal, accrued interest, collection costs, and late charges, if the borrower has been billed for this balance in accordance with section 674.43(a).~~

An institution may cease collection activity on a defaulted account with a balance of less than \$200, including outstanding principal, accrued interest, collection costs, and late charges, if --

(1) The institution has carried out the due diligence procedures described in subpart C of ~~the~~ this part with regard to this account; and

(2) For a period of at least 4 years, the borrower has not made a payment on the account, converted the account to regular repayment status, or applied for a deferment, postponement, or cancellation on the account.

(h) ~~Write-offs of accounts of less than \$5.~~ (1)  
Notwithstanding any other provision in this subpart, an institution may write off an account, including outstanding principal, accrued interest, collection costs, and late charges, with a balance of-

(i) less than \$25; or

(ii) less than \$50 if, for a period of at least 2 years, the borrower has been billed for this balance in accordance with §674.43(a).

(2) An institution that writes off an account under this paragraph may no longer include the amount of the account as an asset of the Fund.

(3) When the institution writes off an account, the borrower is relieved of all repayment obligations.



**(2) Amendatory Language:**

Section 674.47 is amended:

A. By removing paragraph (g)(1).

B. By redesignating paragraphs (g)(2)(i) and (ii) as (g)(1) and (2).

C. In redesignated paragraph (g)(1), by removing "the" and adding, in its place, "this".

D. In the heading to paragraph (h), by removing "of less than \$5".

E. By revising paragraph (h)(1).

F. By adding a new paragraph (h)(3).

The revision and addition read as follows:

§674.47 Costs chargeable to the Fund.

\* \* \* \* \*

(h) \*\*\*

(1) Notwithstanding any other provision in this subpart, an institution may write off an account, including outstanding principal, accrued interest, collection costs, and late charges, with a balance of-

(i) less than \$25; or

(ii) less than \$50 if, for a period of at least 2 years, the borrower has been billed for this balance in accordance with §674.43(a).

\* \* \* \* \*

(h)\*\*\*

(3) When the institution writes off an account, the borrower is relieved of all repayment obligations.

\* \* \* \* \*

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** Yes

**Origin:** ED Proposed 12/14/2001

**Issue:** Perkins - Assignment of Cancelled Loans

**Regulatory Cite:** 674.50(e)(4)

**Summary of Change:** Revisions are made to the assignment regulations to conform to the assignment requirements for loans that have been approved preliminarily for a disability discharge on or after July 1, 2002 and have been assigned to the Department [see § 674.61(b)(3)].

**(1) Change (context):**

§674.50 Assignment of defaulted loans to the United States.

\* \* \* \* \*

(e) The Secretary does not accept assignment of a loan if -

\*\*\*

~~(4) The borrower has been granted cancellation due to death or has filed for or been granted cancellation due to permanent and total disability.~~

\* \* \* \* \*

**Amendatory Language:**

§674.50 [Amended]

Section 674.50 is amended by -

A. Adding "or" after the semicolon in paragraph (e)(2)(ii).

B. Deleting "; or" at the end of paragraph (e)(3) and adding a period in its place.

C. Deleting paragraph (e)(4).

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** Yes

**Origin:** ED Proposed 12/14/2001

**Issue:** Perkins - Reimbursement to the Fund

**Regulatory Cite:** 674.50(g)(2)

**Summary of Change:** The proposed changed to §674.50(g)(2) would make it optional for the Secretary to require an institution to reimburse the Fund if an assigned loan is unenforceable because of an act or omission by the school (see §674.13(a)). This proposed change conforms to an earlier change made in §674.13.

**(1) Change (context):**

§674.50 Assignment of defaulted loans to the United States.

\* \* \* \* \*

(g)\*\*\*

(2) The Secretary may require the institution ~~shall~~to reimburse the Fund for that portion of the outstanding balance on a loan assigned to the United States which the Secretary determines to be unenforceable because of an act or omission of that institution or its agent.

\* \* \* \* \*

**(2) Amendatory Language:**

§674.50 [Amended]

Section 674.50 (g)(2) is amended by adding "Secretary may require the" after "The" and by removing "shall" and adding, in its place, "to".

